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**STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT**

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

CITY OF SEATTLE and PUGET
SOUND ENERGY,

Defendant.

No. 99-2-52532-9 SEA

**AMENDMENT NO. 1 TO
CONSENT DECREE
(GAS WORKS UPLANDS)**

This amendment to Consent Decree No. 99-2-52532-9 is issued pursuant to the authority of RCW 70.105D, the Model Toxics Control Act (MTCA).

STATEMENT OF CURRENT CONDITIONS

A. Consent Decree No. 99-2-52532-9 was signed by the Court and filed on December 23, 1999. The Decree was a negotiated settlement between the Washington State Department of Ecology ("Ecology") and the City of Seattle ("City") and Puget Sound Energy, Inc. (PSE) (collectively the City and PSE are referred to herein as Defendants).

B. Exhibit B to the Consent Decree is the Cleanup Action Plan (CAP), dated June 18, 1999, and approved by Ecology on June 18, 1999.

1 C. Improvements to the City of Seattle's Gas Works Park and MTCA remedial
2 actions to the Gas Works Uplands as set out in the Exhibit B CAP were completed under the
3 supervision of Ecology in 2001.

4 D. Some areas of Gas Works Park were left undeveloped and subject to institutional
5 controls such as fencing and walls to prevent public access. The City of Seattle intended to
6 develop these areas of the Park when funding became available for Park improvements and any
7 necessary extension of MTCA remedial actions to address cleanup in accordance with the
8 proposed cleanup standards and actions described in the CAP.

9 E. Ecology determined that the CAP needs to be revised to allow for substitution of
10 remedial actions and different institutional controls in areas of the Gas Works Uplands specified
11 as subject to fencing under the 1999 CAP. The City of Seattle requested revisions to the CAP to
12 allow for extension of the remedial actions into the undeveloped areas of the Park and the
13 substitution of institutional controls in accordance with the cleanup standards and cleanup action
14 components described in the CAP and approval of Ecology.

15 F. Ecology has approved revisions to the CAP and provided for appropriate notice
16 and public comment.

17 G. This amendment to the Consent Decree is for the purpose of integrating all
18 remedies set forth in the revised CAP for the Site into the existing Consent Decree.

19
20 **AMENDMENT TO CONSENT DECREE**
21

22 Based on the foregoing, the parties stipulate and agree that the Consent Decree should be
23 amended, pursuant to the provisions of Section XV. AMENDMENT OF CONSENT DECREE,
24 as follows:

25 A. All of the terms of the Consent Decree remain in effect unless expressly amended
26 herein.

B. The Exhibit B Cleanup Action Plan, dated June 18, 1999, attached to the 1999 Consent Decree, shall be entirely replaced by the Revised Exhibit B Cleanup Action Plan, dated March, 2005, attached to this Amendment No. 1 to the Consent Decree. All of the Appendices to the 1999 Cleanup Action Plan remain the same and are not changed.

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

STATE OF WASHINGTON
ATTORNEY GENERAL
ROBERT M. McKENNA

JAMES J. PENDOWSKI
Program Manager
Toxics Cleanup Program

SHARONNE E. O'SHEA, WSBA #28796
Assistant Attorney General
Attorneys for Plaintiff
State of Washington
Department of Ecology

Date: _____

Date: _____

PUGET SOUND ENERGY, INC.

RIDDELL WILLIAMS PS

STEVEN SECRIST
Director of Environmental Services

HARRY E. GRANT, WSBA # 13494
Attorney for Defendant Puget Sound Energy

Date: _____

Date: _____

CITY OF SEATTLE

SEATTLE CITY ATTORNEY
THOMAS CARR

KENNETH R. BOUNDS
Superintendent
City of Seattle Department of Parks & Recreation

MARYA J. SILVERNALE, WSBA #14525
Assistant City Attorney
Attorney for Defendant City of Seattle

Date: _____

Date: _____

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DATED this _____ day of _____, 2005.

JUDGE/COMMISSIONER
King County Superior Court

ATTACHED EXHIBIT:
REVISED EXHIBIT B – Cleanup Action Plan [Revised – March 2005]

J:\Data\EnvPro\MJS\Projects\Gas Works Park Uplands\PLEADING\CD Amend\GW Uplands Final CD amend 4-8-05.doc